

## Forest Service, USDA

## § 291.39

shall, upon conviction, be fined in accordance with Title 18, United States Code, or imprisoned not more than 5 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed \$500, such person shall be fined in accordance with Title 18, United States Code, or imprisoned not more than 2 years, or both.

(b) Paleontological and commercial values and the cost of restoration and repair are determined under §§ 291.37 through 291.39.

### § 291.35 Multiple offenses.

In the case of subsequent or repeat violations by the same person, the amount of the monetary penalty assessed may be doubled.

### § 291.36 General exception.

The provisions in §§ 291.28 through 291.35 do not apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of enactment of the Act.

### § 291.37 Scientific or paleontological value.

The scientific value of any paleontological resource involved in a violation of the prohibitions contained in this part or conditions of a permit issued pursuant to this Part shall be the value of the information associated with the paleontological resource. The term “scientific value” can be used interchangeably with the term “paleontological value.” This value shall be determined in terms of the costs of the retrieval of the scientific and educational information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports or educational materials or displays as would be necessary to realize the information potential.

### § 291.38 Fair market or commercial value.

The fair market value of any paleontological resource involved in a viola-

tion of the prohibitions contained in this part or conditions of a permit issued pursuant to this part shall be the commercial value of the resources, determined using the condition of the paleontological resource prior to the violation, to the extent that its prior condition can be ascertained. The term “fair market value” can be used interchangeably with the term “commercial value.” Fair market value of paleontological resources can be established through the use of comparable sales or pricing information, advertisements for comparable resources, appraisals, and/or other information on legal or illegal markets.

### § 291.39 Cost of response, restoration, and repair.

The cost of response, restoration, and repair of paleontological resources involved in a violation of prohibitions contained in this part or conditions of a permit issued pursuant to this part, shall be the sum of the costs incurred for response, investigation, assessment, emergency restoration, or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include but need not be limited to the costs of:

- (a) Reconstruction of the paleontological resource;
- (b) Stabilization and/or salvage of the paleontological resource;
- (c) Ground contour reconstruction and surface stabilization;
- (d) Research necessary to carry out reconstruction or stabilization;
- (e) Physical barriers or other protective devices or signs, necessitated by the disturbance of the paleontological resource, to protect it from further disturbance;
- (f) Examination and analysis of the paleontological resource including recording remaining paleontological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved;
- (g) Storage, preparation, and curation;
- (h) Site monitoring; and
- (i) Preparation of reports relating to any of the above activities.